

## SENATE BILL No. 278

---

### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-31-3-14.5; IC 20-28-5-8; IC 22-15-5-16; IC 25-1-1.1-3; IC 35-48-4; IC 35-50-1-2.

**Synopsis:** Drug dealing and violent crimes. Increases the penalty for dealing certain drugs by one level, and raises the minimum amount for sentence enhancement from one gram to three grams. Removes the requirement that possession with intent to deliver be based on evidence in addition to the weight of the drug. Makes manufacturing hash oil a Level 4 felony if the manufacture results in a fire or explosion that causes serious bodily injury to another person. Increases the penalty for dealing in a counterfeit substance if the person represents the substance to be cocaine, methamphetamine, LSD, or a schedule I or II narcotic drug. Adds unlawful possession of a firearm by a serious violent felon to the definition of "crime of violence". Makes conforming amendments.

**Effective:** July 1, 2015.

---

---

## Merritt

---

---

January 7, 2015, read first time and referred to Committee on Corrections & Criminal Law.

---

---



First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 278

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 16-31-3-14.5, AS AMENDED BY P.L.196-2013,  
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2015]: Sec. 14.5. The department of homeland security may  
4 issue an order under IC 4-21.5-3-6 to deny an applicant's request for  
5 certification or licensure or permanently revoke a certificate or license  
6 under procedures provided by section 14 of this chapter if the  
7 individual who holds the certificate or license issued under this title is  
8 convicted of any of the following:  
9 (1) Dealing in or manufacturing cocaine or a narcotic drug under  
10 IC 35-48-4-1.  
11 (2) Dealing in methamphetamine under IC 35-48-4-1.1.  
12 (3) Dealing in a schedule I, II, or III controlled substance under  
13 IC 35-48-4-2.  
14 (4) Dealing in a schedule IV controlled substance under  
15 IC 35-48-4-3.  
16 (5) Dealing in a schedule V controlled substance under



1 IC 35-48-4-4.

2 (6) Dealing in a substance represented to be a controlled  
3 substance under IC 35-48-4-4.5.

4 (7) Knowingly or intentionally manufacturing, advertising,  
5 distributing, or possessing with intent to manufacture, advertise,  
6 or distribute a substance represented to be a controlled substance  
7 under IC 35-48-4-4.6.

8 (8) Dealing in a counterfeit substance under IC 35-48-4-5.

9 (9) Dealing in marijuana, hash oil, hashish, or salvia **as a felony**  
10 **under ~~IC 35-48-4-10(b)~~: IC 35-48-4-10.**

11 (10) Dealing in a synthetic drug or synthetic drug lookalike  
12 substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b)  
13 before its amendment in 2013).

14 (11) Conspiracy under IC 35-41-5-2 to commit an offense listed  
15 in this section.

16 (12) Attempt under IC 35-41-5-1 to commit an offense listed in  
17 this section.

18 (13) A crime of violence (as defined in IC 35-50-1-2(a)).

19 (14) An offense in any other jurisdiction in which the elements of  
20 the offense for which the conviction was entered are substantially  
21 similar to the elements of an offense described under this section.

22 SECTION 2. IC 20-28-5-8, AS AMENDED BY P.L.168-2014,  
23 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
24 JULY 1, 2015]: Sec. 8. (a) This section applies when a prosecuting  
25 attorney knows that a licensed employee of a public school or a  
26 nonpublic school has been convicted of an offense listed in subsection  
27 (c). The prosecuting attorney shall immediately give written notice of  
28 the conviction to the following:

29 (1) The state superintendent.

30 (2) Except as provided in subdivision (3), the superintendent of  
31 the school corporation that employs the licensed employee or the  
32 equivalent authority if a nonpublic school employs the licensed  
33 employee.

34 (3) The presiding officer of the governing body of the school  
35 corporation that employs the licensed employee, if the convicted  
36 licensed employee is the superintendent of the school corporation.

37 (b) The superintendent of a school corporation, presiding officer of  
38 the governing body, or equivalent authority for a nonpublic school shall  
39 immediately notify the state superintendent when the individual knows  
40 that a current or former licensed employee of the public school or  
41 nonpublic school has been convicted of an offense listed in subsection  
42 (c), or when the governing body or equivalent authority for a nonpublic



1 school takes any final action in relation to an employee who engaged  
2 in any offense listed in subsection (c).

3 (c) The department, after holding a hearing on the matter, shall  
4 permanently revoke the license of a person who is known by the  
5 department to have been convicted of any of the following felonies:

- 6 (1) Kidnapping (IC 35-42-3-2).
- 7 (2) Criminal confinement (IC 35-42-3-3).
- 8 (3) Rape (IC 35-42-4-1).
- 9 (4) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- 10 (5) Child molesting (IC 35-42-4-3).
- 11 (6) Child exploitation (IC 35-42-4-4(b)).
- 12 (7) Vicarious sexual gratification (IC 35-42-4-5).
- 13 (8) Child solicitation (IC 35-42-4-6).
- 14 (9) Child seduction (IC 35-42-4-7).
- 15 (10) Sexual misconduct with a minor (IC 35-42-4-9).
- 16 (11) Incest (IC 35-46-1-3).
- 17 (12) Dealing in or manufacturing cocaine or a narcotic drug
- 18 (IC 35-48-4-1).
- 19 (13) Dealing in methamphetamine (IC 35-48-4-1.1).
- 20 (14) Dealing in a schedule I, II, or III controlled substance
- 21 (IC 35-48-4-2).
- 22 (15) Dealing in a schedule IV controlled substance
- 23 (IC 35-48-4-3).
- 24 (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 25 (17) Dealing in a counterfeit substance (IC 35-48-4-5).
- 26 (18) Dealing in marijuana, hash oil, hashish, or salvia **as a felony**
- 27 ~~(IC 35-48-4-10(b))~~. **(IC 35-48-4-10).**
- 28 (19) Dealing in a synthetic drug or synthetic drug lookalike
- 29 substance (IC 35-48-4-10.5, or IC 35-48-4-10(b) before its
- 30 amendment in 2013).
- 31 (20) Possession of child pornography (IC 35-42-4-4(c)).
- 32 (21) Homicide (IC 35-42-1).
- 33 (22) Voluntary manslaughter (IC 35-42-1-3).
- 34 (23) Reckless homicide (IC 35-42-1-5).
- 35 (24) Battery as any of the following:
- 36 (A) A Class A felony (for a crime committed before July 1,
- 37 2014) or a Level 2 felony (for a crime committed after June
- 38 30, 2014).
- 39 (B) A Class B felony (for a crime committed before July 1,
- 40 2014) or a Level 3 felony (for a crime committed after June
- 41 30, 2014).
- 42 (C) A Class C felony (for a crime committed before July 1,



- 1           2014) or a Level 5 felony (for a crime committed after June  
2           30, 2014).
- 3           (25) Aggravated battery (IC 35-42-2-1.5).
- 4           (26) Robbery (IC 35-42-5-1).
- 5           (27) Carjacking (IC 35-42-5-2) (before its repeal).
- 6           (28) Arson as a Class A felony or Class B felony (for a crime  
7           committed before July 1, 2014) or as a Level 2, Level 3, or Level  
8           4 felony (for a crime committed after June 30, 2014)  
9           (IC 35-43-1-1(a)).
- 10          (29) Burglary as a Class A felony or Class B felony (for a crime  
11          committed before July 1, 2014) or as a Level 1, Level 2, Level 3,  
12          or Level 4 felony (for a crime committed after June 30, 2014)  
13          (IC 35-43-2-1).
- 14          (30) Attempt under IC 35-41-5-1 to commit an offense listed in  
15          this subsection.
- 16          (31) Conspiracy under IC 35-41-5-2 to commit an offense listed  
17          in this subsection.
- 18          (d) The department, after holding a hearing on the matter, shall  
19          permanently revoke the license of a person who is known by the  
20          department to have been convicted of a federal offense or an offense in  
21          another state that is comparable to a felony listed in subsection (c).
- 22          (e) A license may be suspended by the state superintendent as  
23          specified in IC 20-28-7.5.
- 24          (f) The department shall develop a data base of information on  
25          school corporation employees who have been reported to the  
26          department under this section.
- 27          SECTION 3. IC 22-15-5-16, AS AMENDED BY P.L.168-2014,  
28          SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
29          JULY 1, 2015]: Sec. 16. (a) A practitioner shall comply with the  
30          standards established under this licensing program. A practitioner is  
31          subject to the exercise of the disciplinary sanctions under subsection  
32          (b) if the department finds that a practitioner has:
- 33                  (1) engaged in or knowingly cooperated in fraud or material  
34                  deception in order to obtain a license to practice, including  
35                  cheating on a licensing examination;
- 36                  (2) engaged in fraud or material deception in the course of  
37                  professional services or activities;
- 38                  (3) advertised services or goods in a false or misleading manner;
- 39                  (4) falsified or knowingly allowed another person to falsify  
40                  attendance records or certificates of completion of continuing  
41                  education courses provided under this chapter;
- 42                  (5) been convicted of a crime that has a direct bearing on the



practitioner's ability to continue to practice competently;  
 (6) knowingly violated a state statute or rule or federal statute or regulation regulating the profession for which the practitioner is licensed;

(7) continued to practice although the practitioner has become unfit to practice due to:

(A) professional incompetence;

(B) failure to keep abreast of current professional theory or practice;

(C) physical or mental disability; or

(D) addiction to, abuse of, or severe dependency on alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;

(8) engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;

(9) allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual or business who renders services beyond the scope of that individual's or business's training, experience, or competence;

(10) had disciplinary action taken against the practitioner or the practitioner's license to practice in another state or jurisdiction on grounds similar to those under this chapter;

(11) assisted another person in committing an act that would constitute a ground for disciplinary sanction under this chapter; or

(12) allowed a license issued by the department to be:

(A) used by another person; or

(B) displayed to the public when the license has expired, is inactive, is invalid, or has been revoked or suspended.

For purposes of subdivision (10), a certified copy of a record of disciplinary action constitutes prima facie evidence of a disciplinary action in another jurisdiction.

(b) The department may impose one (1) or more of the following sanctions if the department finds that a practitioner is subject to disciplinary sanctions under subsection (a):

(1) Permanent revocation of a practitioner's license.

(2) Suspension of a practitioner's license.

(3) Censure of a practitioner.

(4) Issuance of a letter of reprimand.

(5) Assess a civil penalty against the practitioner in accordance with the following:

(A) The civil penalty may not be more than one thousand



dollars (\$1,000) for each violation listed in subsection (a), except for a finding of incompetency due to a physical or mental disability.

(B) When imposing a civil penalty, the department shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the civil penalty within the time specified by the department, the department may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a civil penalty.

(6) Place a practitioner on probation status and require the practitioner to:

(A) report regularly to the department upon the matters that are the basis of probation;

(B) limit practice to those areas prescribed by the department;

(C) continue or renew professional education approved by the department until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or

(D) perform or refrain from performing any acts, including community restitution or service without compensation, that the department considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.

The department may withdraw or modify this probation if the department finds after a hearing that the deficiency that required disciplinary action has been remedied or that changed circumstances warrant a modification of the order.

(c) If an applicant or a practitioner has engaged in or knowingly cooperated in fraud or material deception to obtain a license to practice, including cheating on the licensing examination, the department may rescind the license if it has been granted, void the examination or other fraudulent or deceptive material, and prohibit the applicant from reapplying for the license for a length of time established by the department.

(d) The department may deny licensure to an applicant who has had disciplinary action taken against the applicant or the applicant's license to practice in another state or jurisdiction or who has practiced without a license in violation of the law. A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action.

(e) The department may order a practitioner to submit to a reasonable physical or mental examination if the practitioner's physical or mental capacity to practice safely and competently is at issue in a



disciplinary proceeding. Failure to comply with a department order to submit to a physical or mental examination makes a practitioner liable to temporary suspension under subsection (j).

(f) Except as provided under subsection (g) or (h), a license may not be denied, revoked, or suspended because the applicant or holder has been convicted of an offense. The acts from which the applicant's or holder's conviction resulted may, however, be considered as to whether the applicant or holder should be entrusted to serve the public in a specific capacity.

(g) The department may deny, suspend, or revoke a license issued under this chapter if the individual who holds the license is convicted of any of the following:

- (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- (2) Possession of methamphetamine under IC 35-48-4-6.1.
- (3) Possession of a controlled substance under IC 35-48-4-7(a).
- (4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(b) (for a crime committed before July 1, 2014) or IC 35-48-4-7(c) (for a crime committed after June 30, 2014).
- (5) Manufacture of paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.1(b).
- (6) Dealing in paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.5(b).
- (7) Possession of paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.3(b).
- (8) Possession of marijuana, hash oil, hashish, or salvia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-11.
- (9) Possession of a synthetic drug or synthetic drug lookalike substance as a:
  - (A) Class D felony for a crime committed before July 1, 2014, under:
    - (i) IC 35-48-4-11, before its amendment in 2013; or
    - (ii) IC 35-48-4-11.5; or
  - (B) Level 6 felony for a crime committed after June 30, 2014, under IC 35-48-4-11.5.
- (10) Maintaining a common nuisance under IC 35-48-4-13.
- (11) An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.





(12) Conspiracy under IC 35-41-5-2 to commit an offense listed in this subsection.

(13) Attempt under IC 35-41-5-1 to commit an offense listed in this subsection.

(14) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this subsection.

(h) The department shall deny, revoke, or suspend a license issued under this chapter if the individual who holds the license is convicted of any of the following:

(1) Dealing in cocaine or a narcotic drug under IC 35-48-4-1.

(2) Dealing in methamphetamine under IC 35-48-4-1.1.

(3) Dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.

(4) Dealing in a schedule IV controlled substance under IC 35-48-4-3.

(5) Dealing in a schedule V controlled substance under IC 35-48-4-4.

(6) Dealing in a substance represented to be a controlled substance under IC 35-48-4-4.5.

(7) Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a substance represented to be a controlled substance under IC 35-48-4-4.6.

(8) Dealing in a counterfeit substance under IC 35-48-4-5.

(9) Dealing in marijuana, hash oil, hashish, or salvia **as a felony** under ~~IC 35-48-4-10(b)~~ **IC 35-48-4-10**.

(10) Dealing in a synthetic drug or synthetic drug lookalike substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b) before its amendment in 2013).

(11) Conspiracy under IC 35-41-5-2 to commit an offense listed in this subsection.

(12) Attempt under IC 35-41-5-1 to commit an offense listed in this subsection.

(13) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this subsection.

(14) A violation of any federal or state drug law or rule related to wholesale legend drug distributors licensed under IC 25-26-14.

(i) A decision of the department under subsections (b) through (h) may be appealed to the commission under IC 4-21.5-3-7.

(j) The department may temporarily suspend a practitioner's license



under IC 4-21.5-4 before a final adjudication or during the appeals process if the department finds that a practitioner represents a clear and immediate danger to the public's health, safety, or property if the practitioner is allowed to continue to practice.

(k) On receipt of a complaint or an information alleging that a person licensed under this chapter has engaged in or is engaging in a practice that jeopardizes the public health, safety, or welfare, the department shall initiate an investigation against the person.

(l) Any complaint filed with the office of the attorney general alleging a violation of this licensing program shall be referred to the department for summary review and for its general information and any authorized action at the time of the filing.

(m) The department shall conduct a fact finding investigation as the department considers proper in relation to the complaint.

(n) The department may reinstate a license that has been suspended under this section if, after a hearing, the department is satisfied that the applicant is able to practice with reasonable skill, safety, and competency to the public. As a condition of reinstatement, the department may impose disciplinary or corrective measures authorized under this chapter.

(o) The department may not reinstate a license that has been revoked under this chapter. An individual whose license has been revoked under this chapter may not apply for a new license until seven (7) years after the date of revocation.

(p) The department shall seek to achieve consistency in the application of sanctions authorized in this chapter. Significant departures from prior decisions involving similar conduct must be explained in the department's findings or orders.

(q) A practitioner may petition the department to accept the surrender of the practitioner's license instead of having a hearing before the commission. The practitioner may not surrender the practitioner's license without the written approval of the department, and the department may impose any conditions appropriate to the surrender or reinstatement of a surrendered license.

(r) A practitioner who has been subjected to disciplinary sanctions may be required by the commission to pay the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. The costs are limited to costs for the following:

- (1) Court reporters.
- (2) Transcripts.



- (3) Certification of documents.
- (4) Photo duplication.
- (5) Witness attendance and mileage fees.
- (6) Postage.
- (7) Expert witnesses.
- (8) Depositions.
- (9) Notarizations.

SECTION 4. IC 25-1-1.1-3, AS AMENDED BY P.L.196-2013, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. A board, a commission, or a committee shall revoke or suspend a license or certificate issued under this title by the board, the commission, or the committee if the individual who holds the license or certificate is convicted of any of the following:

- (1) Dealing in or manufacturing cocaine or a narcotic drug under IC 35-48-4-1.
- (2) Dealing in methamphetamine under IC 35-48-4-1.1.
- (3) Dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.
- (4) Dealing in a schedule IV controlled substance under IC 35-48-4-3.
- (5) Dealing in a schedule V controlled substance under IC 35-48-4-4.
- (6) Dealing in a substance represented to be a controlled substance under IC 35-48-4-4.5.
- (7) Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a substance represented to be a controlled substance under IC 35-48-4-4.6.
- (8) Dealing in a counterfeit substance under IC 35-48-4-5.
- (9) Dealing in marijuana, hash oil, hashish, or salvia **as a felony** under ~~IC 35-48-4-10(b)~~ **IC 35-48-4-10**.
- (10) Dealing in a synthetic drug or synthetic drug lookalike substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b) before its amendment in 2013).
- (11) Conspiracy under IC 35-41-5-2 to commit an offense listed in this section.
- (12) Attempt under IC 35-41-5-1 to commit an offense listed in this section.
- (13) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this section.
- (14) A violation of any federal or state drug law or rule related to



wholesale legend drug distributors licensed under IC 25-26-14.  
 SECTION 5. IC 35-48-4-1, AS AMENDED BY P.L.226-2014(ts),  
 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 JULY 1, 2015]: Sec. 1. (a) A person who:

(1) knowingly or intentionally:

(A) manufactures;

(B) finances the manufacture of;

(C) delivers; or

(D) finances the delivery of;

cocaine or a narcotic drug, pure or adulterated, classified in  
 schedule I or II; or

(2) possesses, with intent to:

(A) manufacture;

(B) finance the manufacture of;

(C) deliver; or

(D) finance the delivery of;

cocaine or a narcotic drug, pure or adulterated, classified in  
 schedule I or II;

commits dealing in cocaine or a narcotic drug, a ~~Level 5~~ **Level 4**  
 felony, except as provided in subsections (b) through (e): (c).

~~(b) A person may be convicted of an offense under subsection (a)(2)  
 only if there is evidence in addition to the weight of the drug that the  
 person intended to manufacture, finance the manufacture of, deliver,  
 or finance the delivery of the drug.~~

~~(e)~~ (b) The offense is a ~~Level 4~~ **Level 3** felony if:

(1) the amount of the drug involved is at least ~~one (1) gram~~ **three**

**(3) grams** but less than five (5) grams; or

(2) the amount of the drug involved is less than ~~one (1) gram~~ **three**  
**(3) grams** and an enhancing circumstance applies.

~~(d)~~ (c) The offense is a ~~Level 3~~ **Level 2** felony if:

(1) the amount of the drug involved is at least five (5) but less  
 than ten (10) grams; or

(2) the amount of the drug involved is at least ~~one (1) gram~~ **three**  
**(3)** but less than five (5) grams and an enhancing circumstance  
 applies.

~~(e)~~ The offense is a ~~Level 2~~ felony if:

~~(1) the amount of the drug involved is at least ten (10) grams; or~~

~~(2) the amount of the drug involved is at least five (5) but less  
 than ten (10) grams and an enhancing circumstance applies.~~

SECTION 6. IC 35-48-4-1.1, AS AMENDED BY P.L.226-2014(ts),  
 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 JULY 1, 2015]: Sec. 1.1. (a) A person who:



(1) knowingly or intentionally:

(A) manufactures;

(B) finances the manufacture of;

(C) delivers; or

(D) finances the delivery of;

methamphetamine, pure or adulterated; or

(2) possesses, with intent to:

(A) manufacture;

(B) finance the manufacture of;

(C) deliver; or

(D) finance the delivery of;

methamphetamine, pure or adulterated;

commits dealing in methamphetamine, a ~~Level 5~~ **Level 4** felony, except as provided in subsections (b) through ~~(e)~~: **(c)**.

~~(b) A person may be convicted of an offense under subsection (a)(2) only if there is evidence in addition to the weight of the drug that the person intended to manufacture, finance the manufacture of, deliver, or finance the delivery of the drug.~~

~~(e)~~ **(b)** The offense is a ~~Level 4~~ **Level 3** felony if:

(1) the amount of the drug involved is at least ~~one (1) gram~~ **three**

**(3) grams** but less than five (5) grams; or

(2) the amount of the drug involved is less than ~~one (1) gram~~

**three (3) grams** and an enhancing circumstance applies.

~~(d)~~ **(c)** The offense is a ~~Level 3~~ **Level 2** felony if:

(1) the amount of the drug involved is at least five (5) but less than ten (10) grams; ~~or~~

(2) the amount of the drug involved is at least ~~one (1) gram~~ **three (3) grams** but less than five (5) grams and an enhancing circumstance applies; **or**

**(3) the person is manufacturing the drug and the manufacture results in an explosion causing serious bodily injury to a person other than the manufacturer.**

~~(e)~~ The offense is a ~~Level 2~~ felony if:

~~(1) the amount of the drug involved is at least ten (10) grams;~~

~~(2) the amount of the drug involved is at least five (5) but less than ten (10) grams and an enhancing circumstance applies; or~~

~~(3) the person is manufacturing the drug and the manufacture results in an explosion causing serious bodily injury to a person other than the manufacturer.~~

SECTION 7. IC 35-48-4-3, AS AMENDED BY P.L.226-2014(ts), SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) A person who:



1 (1) knowingly or intentionally:  
 2 (A) manufactures;  
 3 (B) finances the manufacture of;  
 4 (C) delivers; or  
 5 (D) finances the delivery of;  
 6 a controlled substance, pure or adulterated, classified in schedule  
 7 IV; or  
 8 (2) possesses, with intent to manufacture or deliver, a controlled  
 9 substance, pure or adulterated, classified in schedule IV;  
 10 commits dealing in a schedule IV controlled substance, a ~~Class A~~  
 11 ~~misdemeanor~~, **Level 6 felony**, except as provided in subsections (b)  
 12 through ~~(f)~~: **(e)**.

13 ~~(b) A person may be convicted of an offense under subsection (a)(2)~~  
 14 ~~only if there is evidence in addition to the weight of the drug that the~~  
 15 ~~person intended to manufacture or deliver the controlled substance.~~

16 ~~(c)~~ **(b)** The offense is a ~~Level 6~~ **Level 5** felony if:

- 17 (1) the amount of the drug involved is at least ~~one (1) gram~~ **three**  
 18 **(3) grams** but less than five (5) grams; or  
 19 (2) the amount of the drug involved is less than ~~one (1) gram~~  
 20 **three (3) grams** and an enhancing circumstance applies.

21 ~~(d)~~ **(c)** The offense is a ~~Level 5~~ **Level 4** felony if:

- 22 (1) the amount of the drug involved is at least five (5) but less  
 23 than ten (10) grams; or  
 24 (2) the amount of the drug involved is at least ~~one (1) gram~~ **three**  
 25 **(3) grams** but less than five (5) grams and an enhancing  
 26 circumstance applies.

27 ~~(e)~~ **(d)** The offense is a ~~Level 4~~ **Level 3** felony if:

- 28 (1) the amount of the drug involved is at least ten (10) but less  
 29 than twenty-eight (28) grams; or  
 30 (2) the amount of the drug involved is at least five (5) but less  
 31 than ten (10) grams and an enhancing circumstance applies.

32 ~~(f)~~ **(e)** The offense is a ~~Level 3~~ **Level 2** felony if:

- 33 (1) the amount of the drug involved is at least twenty-eight (28)  
 34 grams; or  
 35 (2) the amount of the drug involved is at least ten (10) but less  
 36 than twenty-eight (28) grams and an enhancing circumstance  
 37 applies.

38 SECTION 8. IC 35-48-4-4, AS AMENDED BY P.L.226-2014(ts),  
 39 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 40 JULY 1, 2015]: Sec. 4. (a) A person who:

- 41 (1) knowingly or intentionally:  
 42 (A) manufactures;



1 (B) finances the manufacture of;  
 2 (C) delivers; or  
 3 (D) finances the delivery of;  
 4 a controlled substance, pure or adulterated, classified in schedule  
 5 V; or  
 6 (2) possesses, with intent to:  
 7 (A) manufacture;  
 8 (B) finance the manufacture of;  
 9 (C) deliver; or  
 10 (D) finance the delivery of;  
 11 a controlled substance, pure or adulterated, classified in schedule  
 12 V;  
 13 commits dealing in a schedule V controlled substance, a ~~Class B Class~~  
 14 **A misdemeanor**, except as provided in subsections (b) through ~~(f)~~: **(e)**.  
 15 ~~(b) A person may be convicted of an offense under subsection (a)(2)~~  
 16 ~~only if there is evidence in addition to the weight of the drug that the~~  
 17 ~~person intended to manufacture, finance the manufacture of, deliver,~~  
 18 ~~or finance the delivery of the drug.~~  
 19 ~~(c)~~ **(b)** The offense is a ~~Class A misdemeanor~~ **Level 6 felony** if:  
 20 (1) the amount of the drug involved is at least ~~one (1) gram~~ **three**  
 21 **(3) grams** but less than five (5) grams; or  
 22 (2) the amount of the drug involved is less than one (1) gram and  
 23 an enhancing circumstance applies.  
 24 ~~(d)~~ **(c)** The offense is a ~~Level 6 felony~~ **Level 5 felony** if:  
 25 (1) the amount of the drug involved is at least five (5) but less  
 26 than ten (10) grams; or  
 27 (2) the amount of the drug involved is at least ~~one (1) gram~~ **three**  
 28 **(3) grams** but less than five (5) grams and an enhancing  
 29 circumstance applies.  
 30 ~~(e)~~ **(d)** The offense is a ~~Level 5 felony~~ **Level 4 felony** if:  
 31 (1) the amount of the drug involved is at least ten (10) but less  
 32 than twenty-eight (28) grams; or  
 33 (2) the amount of the drug involved is at least five (5) but less  
 34 than ten (10) grams and an enhancing circumstance applies.  
 35 ~~(f)~~ **(e)** The offense is a ~~Level 4~~ **Level 3** felony if:  
 36 (1) the amount of the drug involved is at least twenty-eight (28)  
 37 grams; or  
 38 (2) the amount of the drug involved is at least ten (10) but less  
 39 than twenty-eight (28) grams and an enhancing circumstance  
 40 applies.  
 41 SECTION 9. IC 35-48-4-5, AS AMENDED BY P.L.168-2014,  
 42 SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2015]: Sec. 5. **(a) Except as provided in subsection (b), a**  
 person who:

(1) knowingly or intentionally:

(A) creates;

(B) delivers; or

(C) finances the delivery of;  
 a counterfeit substance; or

(2) possesses, with intent to:

(A) deliver; or

(B) finance the delivery of;  
 a counterfeit substance;

commits dealing in a counterfeit substance, a Level 6 felony. ~~However,~~  
~~a person may be convicted of an offense under subsection (a)(2) only~~  
~~if there is evidence in addition to the weight of the counterfeit~~  
~~substance that the person intended to deliver or finance the delivery of~~  
~~the counterfeit substance.~~

**(b) The offense described in subsection (a) is a Level 5 felony if**  
**the person represents the drug to be:**

**(1) cocaine;**

**(2) methamphetamine;**

**(3) lysergic acid diethylamide, also known as LSD; or**

**(4) a narcotic drug classified in schedule I or II.**

SECTION 10. IC 35-48-4-10, AS AMENDED BY P.L.168-2014,  
 SECTION 100, IS AMENDED TO READ AS FOLLOWS  
 [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) A person who:

(1) knowingly or intentionally:

(A) manufactures;

(B) finances the manufacture of;

(C) delivers; or

(D) finances the delivery of;

marijuana, hash oil, hashish, or salvia, pure or adulterated; or

(2) possesses, with intent to:

(A) manufacture;

(B) finance the manufacture of;

(C) deliver; or

(D) finance the delivery of;

marijuana, hash oil, hashish, or salvia, pure or adulterated;

commits dealing in marijuana, hash oil, hashish, or salvia, a Class A  
 misdemeanor, except as provided in subsections (b) through (d).

~~(b) A person may be convicted of an offense under subsection (a)(2)~~  
~~only if there is evidence in addition to the weight of the drug that the~~  
~~person intended to manufacture; finance the manufacture of; deliver;~~





1 ~~or finance the delivery of the drug.~~

2 ~~(e)~~ **(b)** The offense is a Level 6 felony if:

3 (1) the person has a prior conviction for a drug offense and the  
4 amount of the drug involved is:

5 (A) less than thirty (30) grams of marijuana; or

6 (B) less than five (5) grams of hash oil, hashish, or salvia; or

7 (2) the amount of the drug involved is:

8 (A) at least thirty (30) grams but less than ten (10) pounds of  
9 marijuana; or

10 (B) at least five (5) grams but less than three hundred (300)  
11 grams of hash oil, hashish, or salvia.

12 ~~(d)~~ **(c)** The offense is a Level 5 felony if:

13 (1) the person has a prior conviction for a drug dealing offense  
14 and the amount of the drug involved is:

15 (A) at least thirty (30) grams but less than ten (10) pounds of  
16 marijuana; or

17 (B) at least five (5) grams but less than three hundred (300)  
18 grams of hash oil, hashish, or salvia; or

19 (2) the:

20 (A) amount of the drug involved is:

21 (i) at least ten (10) pounds of marijuana; or

22 (ii) at least three hundred (300) grams of hash oil, hashish,  
23 or salvia; or

24 (B) offense involved a sale to a minor.

25 **(d) The offense is a Level 4 felony if the person is manufacturing**  
26 **hash oil and the manufacture results in fire or an explosion causing**  
27 **serious bodily injury to a person other than the manufacturer.**

28 SECTION 11. IC 35-50-1-2, AS AMENDED BY P.L.168-2014,  
29 SECTION 108, IS AMENDED TO READ AS FOLLOWS  
30 [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) As used in this section,  
31 "crime of violence" means the following:

32 (1) Murder (IC 35-42-1-1).

33 (2) Attempted murder (IC 35-41-5-1).

34 (3) Voluntary manslaughter (IC 35-42-1-3).

35 (4) Involuntary manslaughter (IC 35-42-1-4).

36 (5) Reckless homicide (IC 35-42-1-5).

37 (6) Aggravated battery (IC 35-42-2-1.5).

38 (7) Kidnapping (IC 35-42-3-2).

39 (8) Rape (IC 35-42-4-1).

40 (9) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).

41 (10) Child molesting (IC 35-42-4-3).

42 (11) Sexual misconduct with a minor as a Level 1 felony under



1 IC 35-42-4-9(a)(2) or a Level 2 felony under IC 35-42-4-9(b)(2).

2 (12) Robbery as a Level 2 felony or a Level 3 felony  
3 (IC 35-42-5-1).

4 (13) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony,  
5 or Level 4 felony (IC 35-43-2-1).

6 (14) Operating a vehicle while intoxicated causing death  
7 (IC 9-30-5-5).

8 (15) Operating a vehicle while intoxicated causing serious bodily  
9 injury to another person (IC 9-30-5-4).

10 (16) Resisting law enforcement as a felony (IC 35-44.1-3-1).

11 **(17) Unlawful possession of a firearm by a serious violent**  
12 **felon (IC 35-47-4-5).**

13 (b) As used in this section, "episode of criminal conduct" means  
14 offenses or a connected series of offenses that are closely related in  
15 time, place, and circumstance.

16 (c) Except as provided in subsection (d) or (e), the court shall  
17 determine whether terms of imprisonment shall be served concurrently  
18 or consecutively. The court may consider the:

19 (1) aggravating circumstances in IC 35-38-1-7.1(a); and

20 (2) mitigating circumstances in IC 35-38-1-7.1(b);

21 in making a determination under this subsection. The court may order  
22 terms of imprisonment to be served consecutively even if the sentences  
23 are not imposed at the same time. However, except for crimes of  
24 violence, the total of the consecutive terms of imprisonment, exclusive  
25 of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10  
26 (before its repeal) to which the defendant is sentenced for felony  
27 convictions arising out of an episode of criminal conduct shall not  
28 exceed the advisory sentence for a felony which is one (1) class of  
29 felony higher than the most serious of the felonies for which the person  
30 has been convicted.

31 (d) If, after being arrested for one (1) crime, a person commits  
32 another crime:

33 (1) before the date the person is discharged from probation,  
34 parole, or a term of imprisonment imposed for the first crime; or

35 (2) while the person is released:

36 (A) upon the person's own recognizance; or

37 (B) on bond;

38 the terms of imprisonment for the crimes shall be served consecutively,  
39 regardless of the order in which the crimes are tried and sentences are  
40 imposed.

41 (e) If the factfinder determines under IC 35-50-2-11 that a person  
42 used a firearm in the commission of the offense for which the person



1        was convicted, the term of imprisonment for the underlying offense and  
2        the additional term of imprisonment imposed under IC 35-50-2-11  
3        must be served consecutively.

